

**State of Utah****Department of  
Natural Resources**

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*Executive Director*

**Division of  
Oil, Gas & Mining**

JOHN R. BAZA  
*Division Director*

JON M. HUNTSMAN, JR.  
*Governor*

GARY R. HERBERT  
*Lieutenant Governor*

December 8, 2006

CERTIFIED MAIL  
7004 2510 0004 1824 8088

Patrick Collins  
Registered Agent  
Wellington Preparation Plant  
NEICO  
330 East 400 South, Ste 6, PO Box 337  
Springville, Utah 84663

Subject: Findings of Fact, Conclusions, Order and for Violation N06-37-1-1  
Wellington Preparation Plant, C007/012, Carbon County, Utah

Dear Mr. Collins:

On October 30, 2006, an Informal Conference was held to review the fact of violation and assessment for N06-37-1-1. As a result of a review of all pertinent data and facts, including those presented by both the Division and yourself in the Informal Conference, the attached document constitutes the Findings of Fact, Conclusions, and Order. This Notice of Violation has been vacated. Therefore, no fine is due. Thank you for working with the Division in the process of the informal review of the Notice and for working with us to update the mining and reclamation plan.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary Ann Wright".

Mary Ann Wright  
Associate Director, Mining  
Assessment Conference Officer

MAW/vs  
Enclosure  
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BEFORE THE DIVISION OF OIL, GAS AND MINING  
COAL REGULATORY PROGRAM  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH

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IN THE MATTER OF THE	:	INFORMAL CONFERENCE
WELLINGTON PREPARATION	:	For VIOLATION N06-37-1-1
PLANT, NEVADA ELECTRIC	:	
INVESTMENT CO., (NEICO)	:	FINDINGS, CONCLUSIONS
CARBON COUNTY, UTAH	:	AND ORDER
	:	CAUSE NO. C/007/012

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On October 30, 2006, the Division of Oil, Gas and Mining ("OGM" or "Division") held an Informal Conference concerning the Fact of Violation N06-37-1-1, issued to Wellington Preparation Plant, Carbon County, Utah. The following individuals attended: Patrick Collins, Tony Garcia, Karla Knoop, and David Phillips for NEICO (the "Operator", "Permittee" and "Petitioner"); and Wayne Hedberg, Pam Grubaugh-Littig, Priscilla Burton, Daron Haddock for OGM.

Presiding: Mary Ann Wright, Associate Director, Mining, Division of Oil, Gas and Mining

Petitioner: NEICO, Patrick Collins, David Phillips, Karla Knoop and Tony Garcia

The Findings, Conclusions, and Order in this matter are based on information provided by the Petitioner in connection with this informal conference, and on information presented by the Division both of which are in OGM files. A copy of the Division's information was provided to NEICO at the conference. Information presented by NEICO was presented at the conference and after the conference on Nov. 2.

**FACTS PRESENTED: Fact of the Violation**

1. By letter dated September 1, 2006, Mr. Patrick D. Collins, Resident Agent/ Environmental Consultant for NEICO requested an informal conference to discuss the fact of violation and the proposed assessment for Violation N06-37-1-1.

2. Pursuant to Utah Code Ann. Section 40-10-20 and Utah Administrative Rules R645-401-700, notice of the informal conference was properly given and an informal conference in the matter was held on October 30, 2006.
3. The Violation was issued on July 7, 2006 for Failure to operate the Dryer Pond in accordance with the approved plan and failure to adequately close or manage the water well. The Price River Pump house reclamation occurred in 2004.
4. The Violation was primarily abated by submittal of updated information to the Division.
5. Ms. Priscilla Burton, OGM Inspector, presented a Conference package of documents including: a chronology of abatement, historic and current photographs, previous inspection reports, sections of the approved MRP narrative and maps, Inspector's Statement and proposed assessment. Ms. Burton went through the package and explained the information provided. She explained that when she became the inspector in 2005, she was concerned to determine the source of water that had begun appearing in the Dryer Pond and she believed the permittee should investigate this matter and update the mine and reclamation plan. Further, the permittee needed to address the final well closure that remained incomplete as the result of a contractor having gone awry from the operator's direction.
6. Collectively, the Petitioner NEICO stated that there was a disconnection between what was expected and what was written in the OGM Inspection reports and also in verbal communications between NEICO and the OGM inspector. When the operator understood that a violation would be issued and in fact was, a number of studies were undertaken: on water rights, investigations of old mine plans and maps, historical investigations, ground and surface water studies and comparisons, etc. These were done in order to better determine what the water management plan at the site should consist of, and to write this plan into the MRP. NEICO asserted that the site, while not currently active, is an active asset to NEICO and will have a use in the future.
7. NEICO asserted that violations are taken seriously and NEICO has taken a number of steps to update the MRP and investigate the water issue. NEICO has submitted an amendment to its MRP addressing these issues with the required C1 and C2 forms. These plans are under review by the Division.

8. It was agreed by both NEICO and the Division, in the Inspector's statement, that there was no harm either to the public's safety or to the environment caused by the lack of water well management in the plan or by water going into the Dryer pond.

### CONCLUSIONS

- No environmental harm occurred as a result of not knowing the source of the water going into the Dryer Pond.
- No harm to the public's safety existed as a result of water flowing into the Dryer Pond.
- No safety or environmental harm occurred as a result of a lack of well management plan existing in the MRP.
- OGM was correct in having the permittee investigate the origin of the water in the Dryer Pond and address the water well management.
- OGM was correct in requiring updates to the MRP.
- Updates to the MRP should continue to address the proper site management and reflect the situation existing on the ground.
- A Division Order under the Utah Coal Rules can be issued in the place of the violation, but may not be needed.
- The Violation should be vacated and MRP amendment review should continue by the Division.

### ORDER

NOW THEREFORE, it is ordered that:

- The Notice of violation, N06-37-1-1, is hereby vacated.
- NEICO must continue to update its MRP to reflect conditions on the ground, including, but not limited to, the intended use, operation and reclamation, of the well and the dryer pond.

SO DETERMINED AND ORDERED this 30<sup>th</sup> day of November 2006



Mary Ann Wright, Associate Director, Mining  
Informal Conference Officer  
Division of Oil, Gas and Mining  
State of Utah